

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE COMMISSIONER OF COMMERCE

In the Matter of the Insurance  
Producers License of Lisa Sue Mize,  
License No. IN 20327189

**FINDINGS OF FACT,  
CONCLUSIONS, AND  
RECOMMENDATION**

The above-entitled matter came on for a prehearing conference before Administrative Law Judge Steve M. Mihalchick on December 9, 2005, at 2:30 p.m. at the Office of Administrative Hearings in Minneapolis, Minnesota. Michael J. Tostengard, Assistant Attorney General, 445 Minnesota Street, Suite 1200, St. Paul, Minnesota 55101-2130, appeared on behalf of the Department of Commerce ("the Department"). There was no appearance by or on behalf of the Respondent, Liza Sue Mize. The OAH record closed at the conclusion of the prehearing conference on December 9, 2005.

**NOTICE**

This Report is a recommendation, not a final decision. The Commissioner of Commerce will make the final decision after a review of the record. The Commissioner may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations. Under Minn. Stat. § 14.61, the final decision of the Commissioner shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Commissioner. Parties should contact the office of Kevin Murphy, Deputy Commissioner of Commerce, 85 Seventh Place East, Suite 500, St. Paul, Minnesota 55101-2198, to ascertain the procedure for filing exceptions or presenting argument. Pursuant to Minn. Stat. § 14.62, subd. 1, the Agency is required to serve its final decision upon each party and the Administrative Law Judge by first-class mail or as otherwise provided by law.

If the Commissioner fails to issue a final decision within 90 days of the close of the record, this report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. The record closes upon the filing of exceptions to the report and the presentation of argument to the Commissioner, or upon the expiration of the deadline for doing so. The Commissioner must notify the parties and the Administrative Law Judge of the date on which the record closes.

## STATEMENT OF ISSUES

The issues presented in this case are whether the Respondent, Lisa Sue Mize, failed to report to the Department her criminal conviction as an accessory after-the-fact to grand theft larceny or mention the conviction on her application for an individual non-resident insurance producer's license, and whether the Respondent thereby violated Minn. Stat. §§ 45.027, subd. 7(3), and 60K.43, subd. 1(1), (3) and (6) by providing incomplete and untrue information in her licensing application, obtaining a license through fraud or misrepresentation, and being convicted of a violation involving moral turpitude; and, if so, whether the Respondent should be subject to discipline, censure or a civil penalty pursuant to Minn. Stat. §§ 45.027, subds. 6 and 7, and 60K.43.

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

## FINDINGS OF FACT

The Notice of and Order for Hearing, Order for Prehearing Conference, Order to Show Cause, and Statement of Charges initiating this contested case proceeding was served on the Respondent, Lisa Sue Mize, via first class mail on October 26, 2005, at the following address: 403 Morrison Circle, Summersville, WV 26651.<sup>1</sup>

The Notice of and Order for Hearing, Order for Prehearing Conference, and Statement of Charges set a prehearing conference for December 9, 2005, at 2:30 p.m.<sup>2</sup>

The Notice of and Order for Hearing, Order for Prehearing Conference, and Statement of Charges contained the following language:

Respondent's failure to appear at the prehearing conference may result in a finding that Respondent is in default, that the Department's allegations contained in the Statement of Charges may be accepted as true, and that its proposed disciplinary action may be upheld.<sup>3</sup>

The Respondent did not file a notice of appearance or make any request prior to the December 9, 2005, prehearing conference for a continuance or any other relief. No one appeared at the prehearing conference on December 9, 2005 on behalf of the Respondent.

Because the Respondent failed to appear at the prehearing conference in this matter, she is in default.

Pursuant to Minn. Rules part 1400.6000, the allegations contained in the Notice of and Order for Hearing, Order for Prehearing Conference, and Statement of Charges are hereby taken as true and incorporated into these Findings of Fact.

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<sup>1</sup> Affidavit of Service by First Class Mail of Jean-Anne Gates attached to Notice of and Order for Hearing, Order for Prehearing Conference, Order to Show Cause and Statement of Charges (Notice of Hearing).

<sup>2</sup> Notice of Hearing, p. 1.

<sup>3</sup> *Id.*, p. 3.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

### **CONCLUSIONS**

1. The Administrative Law Judge and the Commissioner of Commerce have jurisdiction over this matter pursuant to Minn. Stat. §§ 14.50, 45.027, and 60K.43, subd. 2.

2. The Notice of and Order for Hearing, Order for Prehearing Conference, and Statement of Charges issued by the Department was proper and the Department has complied with all relevant procedural legal requirements.

3. The Respondent, having made no appearance at the prehearing conference, and not requesting any continuance or relief, is in default. Pursuant to Minn. Rules part 1400.6000, the allegations contained in the Notice of and Order for Hearing, Order for Prehearing Conference, and Statement of Charges are hereby taken as true.

4. By providing incomplete and untrue information in her licensing application, obtaining a license through fraud or misrepresentation, and being convicted of a violation involving moral turpitude, the Respondent has violated Minn. Stat. § 60K.43, subd. 1(1), (3) and (6). The Respondent's license is subject to discipline and the Respondent is subject to censure and/or civil penalties pursuant to Minn. Stat. §§ 45.027, subds. 6 and 7, and 60K.43. The imposition of sanctions is in the public interest.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

### **RECOMMENDATION**

IT IS HEREBY RECOMMENDED that the Commissioner of Commerce discipline, censure, and/or impose an appropriate civil penalty against the Respondent, Lisa Sue Mize.

Dated: December 22, 2005

/s/ Steve M. Mihalchick  
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STEVE M. MIHALCHICK  
Administrative Law Judge

Reported: Default (no tape recordings).

### **ADDITIONAL NOTICE**

If the Commissioner fails to issue a final decision within 90 days of the close of the record under Minn. Stat. § 14.61, this report becomes a final decision. In order to comply with Minn. Stat. § 14.62, subd. 2a, the Commissioner must then return the record to the Administrative Law Judge within 10 working days to allow the Judge to determine the discipline to be imposed.